

REMARKS/DISCUSSION:

This Amendment A is being filed within two months after the shortened statutory period for response that ended on January 20, 2006. Accordingly, a Petition for a Two-Month Extension of Time is attached hereto.

Claims 1-20 remain pending in this application.

Applicant has carefully studied the outstanding Office Action. This Amendment is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claims 1, 2, 6 and 7 stand rejected as being anticipated by U.S. Patent No. 6,745,764 to Hickie as noted in the Office Action.

Applicants respectfully direct the Examiner's attention to claim 1, which recites in part:

b) a response testing apparatus including:

(1) a request assembly which audibly communicates to the patient the request generated by the controller and which includes a non-ear-canal-contacting speaker;

Emphasis added. Independent claim 6 also recites a non-ear-canal-contacting speaker.

Hickie neither discloses nor suggests a non-ear-canal-contacting speaker. Hickie discloses an ear clip device 450 capable of being clipped to the lobe of a patient's ear and being electronically coupled to electronic controller 14

via lead 456. . . ear clip 450 comprises a query initiate device 452 in the form of a speaker with provides an audible command to patient to activate the response switch. (Col. 24, lines 37-42. See also figure 16). The device disclosed by Hickie is an ear-canal-contacting speaker.

Applicants, on the other hand, disclose and claim a non-ear-canal-contacting speaker as stated in paragraph 00129:

In one employment of the first method, the first speaker 614 is disposed upon the skin or scalp of the patient 606 in the mastoid or skull area or elsewhere such as the neck or shoulder area. The first speaker 614, utilizing an acoustic transducer vibrator, provides vibration/sound in the audible frequency range. The sounds are perceived primarily by the patient 606 via bone conduction which bypasses the tympanic membrane of the ear and directly vibrates the cochlea of the ear for the patient 606 to hear the sounds.

By reason of dependency, claims 2 and 7 are also patentable over the cited prior art. Reconsideration is requested.

Rejection under 35 U.S.C. § 103(a)

Claims 4, 8, 11 and 19 stand rejected as being unpatentable over Hickie in view of U.S. Publication no. 2002/0150819 to Foremann et al. For the reasons noted above, Hickie does not disclose the claimed invention alone or in combination with Foremann et al. Reconsideration is requested.

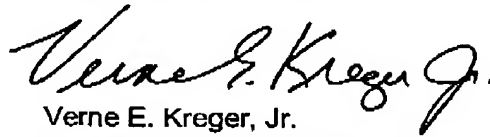
CONCLUSION

Applicant submits that in view of the discussion, the rejections have been overcome and that the invention is now patentable over the cited prior. The Examiner is respectfully requested to reconsider all rejections and pass this case to issue.

Should any minor points remain prior to issuance of a Notice of Allowance, the Examiner is requested to telephone the undersigned at the below-listed telephone number.

The Commissioner is hereby authorized to charge any additional fees, which may be required to Account No. 10-0750/END-5031/VEK.

Respectfully submitted,



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